REMARKS

Reconsideration of the application is respectfully requested.

Claims 17-20, 22-27 and 39-55 are in the application. Claims 25-27 are presently withdrawn in view of a previous election requirement.

At the onset, it is noted that the Office Action has been declared final. Present claim 17 includes the limitation of the previous, now canceled, claim 21. Claim 40 is previous claim 18 in independent form, while claim 48 is based on previous claim 23. In the previous Office Action of January 10, 2006, claims 18, 21 and 23 were not rejected in view of U.S. Patent No. 5,865,723 to Love. However, claims 17, 40 and 48 have been rejected in view of U.S. Patent No. 5,865,723 in the present Office Action. This is a new ground of rejection raised against these claims. As set forth in MPEP §706.07(a), a second Office Action should not be declared final where a new ground of rejection is introduced that is "neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement". That is the case here. The previous Amendment did not necessitate a new ground of rejection nor was new art cited in an Information Disclosure Statement — the same claims are rejected on a new ground. It is respectfully submitted that the finality of the Office Action should be withdrawn pursuant to MPEP §706.07(d).

In the Official Action, the Examiner rejected claims 17-20, 22-24 and 39-55 under 35 U.S.C. §102(b) as being allegedly anticipated by Von Oepen et al. (U.S. Patent No. 5,916,264). The Examiner asserted at pages 3-4 of the Office Action that "the Von Oepen reference can provide a sheath 13 along a full length of the device; therefore, it will provide no portions of the main stent 11 being in contact with the support stent 12." The Examiner's assertions are respectfully traversed.

Von Oepen et al. is directed to a stent graft which includes two (2) coaxial stents 11 and 12 separated by an expandable material layer 13. It is clear that in Von Oepen et al., the two stents 11 and 12 are directly connected to each other. As set forth at column 2, lines 26-27, the material layer 13 "overlaps **only** one part of the stents 11, 12." (Emphasis applied). Von Oepen et al. repeatedly states that the stents 11 and 12 are to be connected directly to each other: "both stents can be connected with one another punctually in their end regions" (col. 1, lines 45-50); "both stents 11, 12 can be connected with one another in their end regions punctually, by a plurality of points" (col. 2, lines 27-29); and, "both said stents being directly connected with one another in their end regions" (col. 2, lines 52-54). It is clear that the two stents are to be connected directly one to another and that the expandable material layer is to overlap only a portion of the stents.

Claims 17, 40 and 48, all of the independent claims of the subject application, are each directed to a covered stent including "a main stent having a radially-expandable body" and "at least one support stent" with a sheath "interposed between said body and said at least one support stent". Further, the claims state that "no portions of said main stent being in contact with said at least one support stent". In contrast, the stents 11, 12 of the Von Oepen et al. device are only partially overlapped by the material layer 13 and are directly connected at their end regions and, thus, are in contact. There is no disclosure or suggestion in Von Oepen et al. to provide the material layer 13 along the full length of the device or to avoid end connections between the stents. It is respectfully submitted that claims 17, 40 and 48, along with dependent claims 18-20, 22-24, 39, 41-47 and 49-55, are patentable over Von Oepen et al.

The Examiner rejected claims 17, 39-40 and 48 under 35 U.S.C. §102(b) as being allegedly anticipated by Love (U.S. Patent No. 5,865,723).

Love is directed to a method and apparatus performing vascular prostheses. The vascular prostheses includes an inner frame component and an outer frame component between which a rolled sheet of tissue is captured. (Col. 7, lines 25-28). The inner and outer frame components "will usually have identical dimensions, i.e., diameter, length, and pitch." (Col. 7, lines 48-49). The rolled sheet of tissue will be obtained from a human or animal source. (Col. 5, lines 8-65).

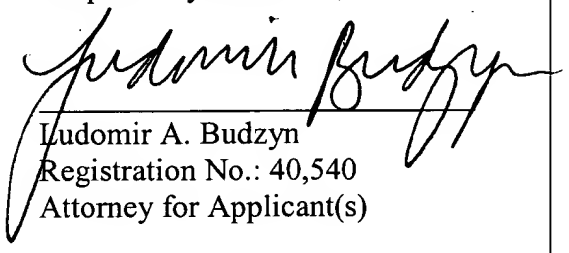
Claim 17 states "at least one support stent having an axial length less than the axial length of said body". As noted above, Love does not disclose or suggest such. Rather, Love provides for the two stents to have the same length. It is respectfully submitted that claim 17, along with dependent claim 39, are patentable over Love.

Claim 40 is directed to a covered stent where "said at least one support stent is plastically-deformed and generates a relative pressing force with said main stent to hold said sheath in place". Love discloses various techniques for fastening the inner and outer frame components together, as set forth at col. 8, line 17-col. 9, line 4. These include placing or screwing the outer support frame onto the inner support frame (col. 8, lines 17-31) or using mating fasteners (col. 8, lines 32-61). In any regard, there is only disclosure in Love of expanding or contracting the support frames, not causing plastic deformation of one or both. It is respectfully submitted that claim 40 is patentable over Love.

Claim 48 is directed to a covered stent which includes "a polymeric sheath". As set forth above, it is clear that the tissue layer is formed of natural, not synthetic, much less polymeric, material. There is no disclosure or suggestion in Love of using any material other than natural material. It is respectfully submitted that claim 48 is patentable over Love.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,



Ludomir A. Budzyn
Registration No.: 40,540
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700